

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

MAR 29 2006

DAVID J. MALAND, CLERK

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

CITY OF PALESTINE, TEXAS,

Defendant.

BY  
DEPUTY \_\_\_\_\_

CIVIL ACTION NO. 6:06cv141

COMPLAINT

JURY TRIAL DEMAND

**NATURE OF THE ACTION**

This is an action under the Age Discrimination in Employment Act of 1967 to correct unlawful employment practices on the basis of age and to provide appropriate relief to Charles S. Petrovich, Jr., who was denied a promotion to the position of DEA Task Force Agent by Defendant, the City of Palestine, Texas ("Palestine"), because of his age.

**JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference §§ 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217.

2. The employment policies and practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of Texas, Tyler Division.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, Defendant Palestine has continuously been a government municipality doing business in the State of Texas in the City of Palestine, and has continuously had at least 20 employees.

5. At all relevant times, Defendant Palestine has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

### **CONCILIATION**

6. Prior to institution of this lawsuit, the Commission's representative attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference, and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

### **STATEMENT OF CLAIMS**

7. The Defendant Palestine has engaged in unlawful employment practices at its Palestine, Texas location in violation of §623(a) of the ADEA, 29 U.S.C. § 623(a) by failing to select Charles S. Petrovich, Jr., who is over 40 years of age, for the position of DEA Task Force Agent because of his age, and thus denying him an equal opportunity for promotion and an increase in pay.

8. The effect of the practices complained of in paragraph seven above has been to deprive Charles S. Petrovich, Jr., of equal employment opportunities and to otherwise adversely affect his status as an employee because of his age.

9. The unlawful employment policies and practices complained of in paragraph seven above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

**PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction ensuring compliance with the ADEA and enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from failing to promote qualified individuals on the basis of their age and from engaging in any other employment practices which discriminate on the basis of age against individuals 40 years of age and older;

B. Order the Defendant to institute and carry out policies, practices and programs that provide equal employment opportunities for individuals age 40 and older, and which eradicate the effects of Defendant's past and present unlawful employment practices;

C. Grant a judgment requiring Defendant to pay Charles S. Petrovich, Jr. appropriate back wages and other sums he would have earned or been entitled to receive, in an amount to be determined at trial and an equal sum as liquidated damages, or prejudgment interest in lieu thereof;

D. Order Defendant to make whole Charles S. Petrovich, Jr. who was adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to promoting Charles S. Petrovich, Jr. to the DEA Task Force Agent or to a comparable position;

- E. Grant such further relief as the Court deems necessary and proper in the public interest; and
- F. Award the Commission its costs in this action.


**JURY TRIAL DEMAND**

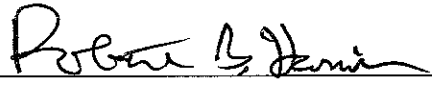
The Commission requests a jury trial on all questions of fact raised by its Complaint.


Respectfully submitted,

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